

This letter concerns the definition of a “delivering supplier” for purposes of collection of Gas Use Tax. See P.A. 93-0031. (This is a GIL.)

January 29, 2004

Dear Xxxxx:

This letter is in response to your letter dated August 1, 2003, in which you request information. We apologize for the delay in responding to your inquiry. We were hoping to answer your letter once rules have been adopted regarding the Gas Use Tax Law. However, such rules have not yet been adopted. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a local distribution company that delivers natural gas to end users. ABC sells natural gas that it owns to end users and also transports third party and customer-owned natural gas to Illinois end users.

**Issue: What constitutes a delivering supplier as defined in Section 5.5 of the recently enacted Gas Use Tax Law. See L. 2003 P.A. 93-31 S1722 5-5.**

The new law becomes effective October 1, 2003. ABC is trying to clarify the definition ‘delivering supplier’ under the Gas Use Tax Law.

The definitional language of a delivering supplier seems ambiguous. We can interpret ‘delivering supplier’ in two ways: (1) the natural gas ‘supplier’ or seller that sold the gas for end use and who does not own the local distribution system or (2) the party that owns the local distribution system and delivers the natural gas to the Illinois end user. What is meant by the term ‘delivering supplier’?

Thank you for your consideration of this matter.

**DEPARTMENT'S RESPONSE:**

Section 5-5 of the Gas Use Tax Law defines "delivering supplier" as "any person engaged in the business of delivering gas to persons for use or consumption and not for resale, and who, in any case where more than one person participates in the delivery of gas to a specific purchaser, is the last of the suppliers engaged in delivering the gas prior to its receipt by the purchaser." See Section 5-5 of Public Act 93-0031. In reference to your specific question, the party that owns the local distribution system and delivers the gas to the Illinois end user is the delivering supplier.

I hope this information is helpful. Again, we apologize for the delay in responding to your inquiry. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
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TDC:msk